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being consumed within the institute, and the revenue derived from marketing the surplus being devoted to the support of the school as a mere incident, and the state did not show what part of such property constituted a source of revenue as distinguished from that which was solely devoted to educational purposes, neither the farm nor its products were subject to taxation.

BOARD OF SUP'RS OF ELIZABETH CITY COUNTY *v.* CITY
OF NEWPORT NEWS.

March 21, 1907.

[56 S. E. 801.]

1. Taxation—Corporations—Assessment—Apportionment—Review.—Where a street railway company did not contest a determination of the State Corporation Commission apportioning certain of its personal property for taxation between a city and a county, Code 1904, §§ 573a, 3454, prohibiting an appeal from the judgment of the State Corporation Commission ascertaining the value of any property of a railroad for the purpose of taxation and assessing taxes thereon, did not preclude the county from maintaining a writ of error against the city to review such apportionment.

2. Same—Proceeding by County.—Where the State Corporation Commission apportioned certain personal property of a railroad company for taxation between the city and the county, the latter was entitled to institute an original proceeding before the Commission to have such apportionment reconsidered and corrected.

3. Same—Electric Railways—Rolling Stock—Place of Taxation.—Where an electric railway operating through several cities and towns had its principal place of business in plaintiff county, its entire rolling stock was taxable there.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 45, Taxation, § 463.]

TOWN OF WEST POINT *v.* BLAND et al.

March 21, 1907.

[56 S. E. 802.]

1. Dedication—Requisites—Intent.—In order to constitute a dedication of land to the public for a street, there must be an intention to appropriate the land for the use and benefit of the public.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 15, Dedication, § 13.]

2. Corporations—Authority of Officers—Dedication of Land.—Neither the president, the general manager, nor agents of a corpora-

tion have power to dedicate its land to public uses, in the absence of express authority conferred by the board of directors.

3. Dedication—User by Public—License.—Mere user by the public of a supposed street, though long continued, will be regarded as a mere license, revocable at the pleasure of the owner of the land, and not to constitute a dedication where it does not appear that any public or private interests have been acquired on the faith of the supposed dedication of the land for a street.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 15, Dedication, §§ 20, 21.]

4. Same—Evidence.—In 1856 a corporation caused its land, including that in controversy, to be platted and laid off in lots and streets, and a map made thereof, and in 1870 defendant town was incorporated and the same year adopted such map, and had it recorded as required by Code 1860, c. 54, § 1. Such map did not show an extension of E street over the land in controversy to a river, but for many years such land was used by the public as a common and as a highway to reach the river. No highway was ever established over the land, all of which was claimed by plaintiffs until a few years prior to the litigation. In 1871 an entry was made on the books of the corporation charging P. for the purchase of certain land and water rights, excepting the land laid off for the streets D and E, extending through the same, which excepted the land in controversy, but there was no proof of any act of dedication by the corporation's board of directors. Held, that such evidence was insufficient to establish a valid dedication of the land in controversy as an extension of E street to the river.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 15, Dedication, § 85.]

FOREMAN *v.* NORFOLK, PORTSMOUTH & NEWPORT
NEWS CO.

March 21, 1907.

[56 S. E. 805.]

1. Appeal—Record—Contents—Construction.—A judgment setting aside a verdict as contrary to the law and evidence cannot be reviewed on appeal where the instructions are not a part of the record.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 3, Appeal and Error, §§ 2944-2947.]

2. Carriers—Street Railroads—Use of Tracks in Common.—Where defendant and another street railway company operated cars over two parallel tracks in common, and plaintiff, a passenger on a car of the other company, was injured by alighting on one of the tracks in front of one of defendant's cars, the companies being distinct,